

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RICHARD CLUCHEY,

Plaintiff,

v.

Civil Case No. 16-13479
Honorable Linda V. Parker

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

**OPINION AND ORDER (1) ADOPTING MAGISTRATE JUDGE'S
FEBRUARY 21, 2018 REPORT AND RECOMMENDATION [ECF NO. 24];
(2) DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT
[ECF NO. 15]; AND (3) GRANTING DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT [ECF NO. 22]**

On September 26, 2016, Plaintiff filed this lawsuit challenging the final decision by the Commissioner of Social Security ("Commissioner") denying Plaintiff's application for a period of disability and disability insurance benefits under the Social Security Act. On September 27, 2016, this Court referred the matter to Magistrate Judge Stephanie Dawkins Davis for all pretrial proceedings, including a hearing and determination of all non-dispositive matters pursuant to 28 U.S.C. §636(b)(1)(A) and/or a report and recommendation ("R&R") on all dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). (ECF No. 4.)

The parties subsequently filed cross-motions for summary judgment. (ECF Nos. 15, 22.)

On February 21, 2018, Magistrate Judge Davis issued an R&R recommending that this Court grant the Commissioner's motion and deny Plaintiff's motion. (ECF No. 24.) In the R&R, Magistrate Judge Davis rejects Plaintiff's claims of error based on the ALJ's failure to consider his facet arthropathy and obstructive sleep apnea to be severe impairments at Step 2 and to consider all of his impairments (severe and nonsevere) throughout the sequential review process. At the conclusion of the R&R, Magistrate Judge Davis advises the parties that they may object to and seek review of the R&R within fourteen days of service upon them. (*Id.* at Pg ID 811-12.) She further specifically advises the parties that "[f]ailure to file specific objections constitutes a waiver of any further right to appeal." (*Id.* at Pg ID 811, citing *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991).) Neither party filed objections to the R&R.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Davis. The Court therefore adopts Magistrate Judge Davis' February 21, 2018 R&R.

Accordingly,

IT IS ORDERED, that Plaintiff's motion for summary judgment (ECF No. 15) is **DENIED**;

IT IS FURTHER ORDERED, that Defendant's motion for summary judgment (ECF No. 22) is **GRANTED**.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: March 13, 2018

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, March 13, 2018, by electronic and/or U.S. First Class mail.

s/ R. Loury
Case Manager